

3. This Court is the proper venue for this action pursuant to 28 U.S.C. § 1391 in that all parties reside in this Judicial District and the matters at issue arose in this Judicial District.

PARTIES

4. Plaintiff James LaCroix is a patrol officer employed by the Boston Police Department and is a resident of the Commonwealth of Massachusetts.
5. Plaintiff Renee Payne-Callender is a police detective employed by the Boston Police Department and is a resident of the Commonwealth of Massachusetts.
6. Plaintiff Boston Police Patrolmen's Association ("BPPA"), is the collective bargaining agent for all police patrol officers in the BPD, including Plaintiff LaCroix. A number of its members have been subject to physical and psychological examinations unrelated to their leaves in a similar matter as described herein. In addition to its duties as the exclusive bargaining representative for all patrol officers, the BPPA advocates that its members not be subject to unlawful policies or practices, including policies or practices prohibited under G.L. c. 151B and the ADA.
7. Plaintiff Boston Police Detectives Benevolent Society ("BPDBS") is the collective bargaining agent for all Police Detectives in the BPD. A number of its members have been subject to physical and psychological examinations unrelated to their leaves in a similar matter as described herein. In addition to its duties as the exclusive bargaining representative for all detectives, the BPDBS advocates that its members not be subject to unlawful policies or practices, including policies or practices prohibited under G.L. c. 151B and the ADA.

8. Plaintiff Boston Police Superior Officers Federation (“BPSOF”) is the collective bargaining agent for all uniformed sergeants, lieutenants, and captains in the BPD. A number of its members have been subject to physical and psychological examinations unrelated to their leaves in a similar matter as described herein. In addition to its duties as the exclusive bargaining representative for all of its members, the BPSOF advocates that its members not be subject to unlawful policies or practices, including policies or practices prohibited under G.L. c. 151B and the ADA.
9. Defendant Boston Police Department (BPD) is a department of the City of Boston, which is a municipality of, and a political subdivision of the Commonwealth of Massachusetts. The BPD is an employer within the meaning of 42 U.S.C. § 12111(5) and M.G.L. c. 151B, § 1(5).

FACTS

10. On March 5, 2016, Plaintiff Lacroix injured his back and right hip during the foot chase of a suspect in Dorchester. As a result of his injuries, Lacroix was placed on injury leave. His recovery was lengthy and he remained out of work until December, 2018. In late 2018, Lacroix’s doctor finally cleared him to return to work in a light duty capacity.
11. During his recovery, Lacroix was periodically seen by Dr. Deiter Affeln, the BPD’s occupational physician, in regard to his back and hip injuries. On December 4, 2018, Dr. Affeln cleared Lacroix to return to work in a light duty capacity with work restrictions. Lacroix’s examinations with Dr. Affeln related to his back and hip injury, he was never subjected to a full physical examination.
12. At around this time, Lacroix was also told that he would need to be seen and evaluated by Dr. Brown, the BPD’s psychiatrist, for a mental examination prior to being returned

to duty. He was told that he needed to see the psychiatrist because he had been on leave for more than six months. Lacroix's leave was for an injury to his back and right hip. At no point did his mental state come into question. To his knowledge, the department has never had a concern regarding his mental state.

13. Because he was ordered to see Dr. Brown as a condition of his return to duty, Lacroix complied with the order and was examined by Dr. Brown on December 13, 2018. He approved Lacroix's return to work. After he was ordered to see Dr. Brown, Lacroix informed his union, the BPPA.

14. The BPPA has questioned the BPD regarding the propriety of subjecting officers who are on leave for more than 6 months to a psychological examination as a condition of returning to work. On December 20, 2018, the BPD confirmed in writing to counsel for the BPPA that "Our consistent practice is that, prior to returning to full duty, Officers must meet with Dr. Affeln if they have been absent for duty for three or more months, and both Dr. Brown and Dr. Affeln if they have been absent for six or more months."

15. Plaintiff Renee Payne-Callender has been a Boston Police Officer for thirty three years. She has been a Detective for twenty one years, and currently works in the Boston Police Department's Family Justice Center. On February 28, 2018, Payne-Callender broke a bone in her right heel while performing her duties. As a result of her injuries, Payne-Callender was placed on injury leave. She remained out of work until January 30, 2019. On January 11, 2019 Payne-Callender's doctor cleared her to return to work.

16. During her recovery, Payne-Callender was periodically seen by the Police Department's Medically Incapacitated Section ("MIS") in regard to her foot injuries. On January 18, 2019, RN Zelma Greenstein cleared Payne-Callender to return to work in a light duty

capacity. Payne-Callender's examinations with MIS related to her foot injury, she was never subjected to a full physical examination.

17. When Payne-Callender was cleared for light duty on January 18, she was told that she could not be cleared for full duty and be issued her firearm until after she was seen and evaluated by Dr. Brown, the BPD's psychiatrist. She was told that she needed to see the psychiatrist because she had been on leave for more than six months. Due to Dr. Brown's schedule, Payne-Callender was not scheduled to see Dr. Brown until January 31, 2019.

18. Payne-Callender's leave was for an injury to her foot. At no point did her mental state come into question. To her knowledge, the department has never had a concern regarding her mental state.

19. Because she was ordered to see Dr. Brown as a condition of her return to full duty and to be issued her firearm, Payne-Callender complied with the order and was examined by Dr. Brown on January 31, 2019. He approved her return to work. During the brief examination, Payne-Callender specifically asked Dr. Brown if anyone at the Department had raised a concern regarding her mental state. He assured her that no one had.

20. The BPD practice is applied regardless of the reason for the officer's absence. All officers, whether on medical, injury, personal, military, or other leave, are subjected to the examinations.

21. There is a potential that questions asked during the examinations could lead to the disclosure of genetic information by an officer.

22. Upon information and belief, the BPD previously only subjected officers to a psychological examination if they were returning from military leave. However, likely

in an effort to avoid violating The Uniformed Services Employment and Reemployment Rights Act (USERRA), the department expanded the requirement to all officers returning from a leave in excess of six months.

23. On March 27, 2019, the plaintiffs filed charges of discrimination regarding the examinations with the Massachusetts Commission Against Discrimination ("MCAD"), which also docketed the charges with the Equal Employment Opportunity Commission ("EEOC"). On May 23, 2019, the MCAD, on behalf of itself and the EEOC, granted the plaintiffs leave to file a civil action in court.

CAUSES OF ACTION

COUNT 1 – VIOLATION OF 42 U.S.C. § 12112(d) AMERICAN'S WITH DISABILITIES ACT

24. Under the ADA, employers may not require an employee to undergo a medical (or psychological) examination "unless such examination or inquiry is shown to be job-related and consistent with business necessity." 42 U.S.C. § 12112(d)(4)(A) ; see also 29 C.F.R. §§ 1630.13(b) ; 1630.14(c). In addition, employers may "make inquiries into the ability of an employee to perform job-related functions." 42 U.S.C. § 12112(d)(4)(B) ; see also 29 C.F.R. § 1630.14(c). However, medical examinations are otherwise not permitted.

25. The psychological examinations of Officer LaCroix and Detective Payne-Callender were not related to a business necessity or intended to determine their ability to perform job-related functions. While the physical examination the two underwent were to ensure their recovery from their work-related injuries, the psychological examinations

unrelated to the injuries that caused the leave did not relate to their recovery or their ability to perform job-relation functions.

26. The BPD policy of subjecting officers returning from leave to medical and psychological examinations unrelated to their leaves violates 42 U.S.C. § 12112(d).

**COUNT II – VIOLATION OF G.L. C. 151B, §4
HANDICAP DISCRIMINATION**

27. The Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1-26.
28. The BPD policy of subjecting officers returning from leave to medical and psychological examinations tends to require officers to disclose potential handicaps without a valid reason in violation of G.L. c. 151B, §4.
29. The BPD policy of subjecting officers returning from leave to medical and psychological examinations improperly regards officers as being handicapped in violation of G.L. c. 151B, §4.

**COUNT III – VIOLATION OF G.L. C. 151B, §4(19)
GENETIC INFORMATION DISCRIMINATION**

30. The Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1-29.
31. The BPD policy of subjecting officers returning from leave to medical and psychological examinations has the potential to require officers to disclose confidential genetic information in violation of G.L. c. 151B, §4(19).

JURY DEMAND

The Plaintiffs demand a jury trial on all claims.

WHEREFORE, Plaintiffs respectfully request that this Court:

- a. enter a declaratory judgment that BPD has willfully and wrongfully violated its statutory obligations under the ADA and M.G.L. c. 151B and deprived Plaintiffs of their entitlements under the law;
- b. order that the BPD cease subjecting officers returning from leave to medical and psychological examinations absent a business necessity or to determine the officer's ability to perform job-related functions;
- c. enter a judgment against Defendants under the ADA and M.G.L. c. 151B;
- d. award each Plaintiff compensatory, emotional distress, and punitive damages for the violation of their rights under the ADA and M.G.L. c. 151B, plus interest;
- e. award Plaintiffs their reasonable attorney's fees and costs of this action pursuant to 42 U.S.C. § 12205; and

f. grant such other relief as may be just and proper.

Dated: July 3, 2019

Respectfully submitted,

JAMES LaCROIX and BPPA,
By their counsel,

RENEE PAYNE-CALLENDER and BPSOF,
By their counsel,

/s/ Bryan Decker
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

James Lacroix, Renee Payne-Callender, et al.

(b) County of Residence of First Listed Plaintiff Suffolk
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Bryan Decker, Decker & Rubin, PC, 295 Freeport Street
Boston, MA 02122 (617)877-1716

DEFENDANTS

Boston Police Department

County of Residence of First Listed Defendant Suffolk
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

David Fredette, Legal Advisor, Boston Police Department,
One Schroeder Plaza, Boston, MA 02120 (617)343-4550

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input checked="" type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. s. 12112

Brief description of cause:

violation of ADA in subjecting police officers to discriminatory physical and psychological examinations

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

07/03/2019

SIGNATURE OF ATTORNEY OF RECORD

/s/ Bryan Decker

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) James Lacroix v. Boston Police Department

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

☐

I. 160, 400, 410, 441, 535, 830*, 835*, 850, 891, 893, R.23, REGARDLESS OF NATURE OF SUIT.

☒

II. 110, 130, 190, 196, 370, 375, 376, 440, 442, 443, 445, 446, 448, 470, 751, 820*, 840*, 895, 896, 899.

☐

III. 120, 140, 150, 151, 152, 153, 195, 210, 220, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 367, 368, 371, 380, 385, 422, 423, 430, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, 560, 625, 690, 710, 720, 740, 790, 791, 861-865, 870, 871, 890, 950.

*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

none

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐NO ☒

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐NO ☒7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☒NO ☐A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☒Central Division ☐Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐Central Division ☐Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Bryan DeckerADDRESS Decker & Rubin, PC, 295 Freeport Street, Boston, MA 02122TELEPHONE NO. (617)877-1716